

Conference Engrossed

State of Arizona
House of Representatives
Forty-seventh Legislature
First Regular Session
2005

CHAPTER 270

HOUSE BILL 2190

AN ACT

AMENDING SECTIONS 20-167, 20-407, 20-408 AND 20-411, ARIZONA REVISED
STATUTES; RELATING TO SURPLUS LINES BROKERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-167, Arizona Revised Statutes, is amended to
3 read:

4 20-167. Fees

5 A. The director shall collect in advance the following fees, as
6 adjusted pursuant to subsection F of this section, which are nonrefundable on
7 payment:

	Not Less Than:	Not More Than:
8		
9 1. For filing charter documents:		
10 (a) Original charter documents,		
11 articles of incorporation,		
12 bylaws, or record of		
13 organization of insurers,		
14 or certified copies thereof,		
15 required to be filed with		
16 the director and not also		
17 subject to filing in the		
18 office of the corporation		
19 commission	\$ 40.00	\$ 115.00
20 (b) Amended charter documents	15.00	45.00
21 (c) No charge or fee shall be		
22 required for filing with		
23 the director any of such		
24 documents also required		
25 by law to be filed in the		
26 office of the corporation		
27 commission		
28 2. Certificate of authority:		
29 (a) Issuance:		
30 Fraternal benefit societies	\$ 15.00	\$ 45.00
31 Medical or hospital service		
32 corporations, health care		
33 services organizations or		
34 prepaid dental plan		
35 organizations	40.00	115.00
36 Mechanical		
37 reimbursement reinsurers	150.00	450.00
38 All other insurers	100.00	295.00
39 (b) Renewal:		
40 Fraternal benefit societies	15.00	45.00
41 Medical or hospital service		
42 corporations, health care		
43 services organizations or		
44 prepaid dental plan		
45 organizations	40.00	115.00

1	Domestic stock life insurers,		
2	domestic stock disability		
3	insurers or domestic stock		
4	life and disability insurers	750.00	2,250.00
5	Domestic life reinsurers,		
6	domestic disability		
7	reinsurers or domestic		
8	life and disability		
9	reinsurers	2,250.00	5,500.00
10	Mechanical reimbursement		
11	reinsurers	2,250.00	5,500.00
12	All other insurers	70.00	205.00
13	3. Certificate of registration as an		
14	administrator or application for		
15	renewal under section 20-485.12	\$ 100.00	\$ 295.00
16	4. Authority to solicit applications		
17	for and issue policies by means		
18	of mechanical vending machines	\$ 30.00	\$ 90.00
19	5. Service company permit	\$ 150.00	\$ 450.00
20	6. Application for motor vehicle		
21	service contract program approval	\$ 150.00	\$ 450.00
22	7. Life care contract application		
23	or annual report	\$ 225.00	\$ 675.00
24	8. Filing annual statement	\$ 150.00	\$ 450.00
25	9. Annual statement filing for		
26	exempt insurer transacting life		
27	insurance, disability insurance		
28	or annuity business pursuant to		
29	section 20-401.05	\$ 65.00	\$ 100.00
30	10. Licenses and examinations:		
31	(a) Licenses:		
32	Surplus lines broker's license,		
33	quadrennially	\$600.00	\$1,800.00
34			\$1,000.00
35	All other licenses,		
36	quadrennially	60.00	180.00
37	(b) Examinations for license:		
38	Examination on laws and one kind		
39	of insurance	8.00	25.00
40	Examination on laws and two or		
41	more kinds of insurance	15.00	45.00
42	11. Miscellaneous:		
43	Fee accompanying service of		
44	process upon director	\$ 8.00	\$ 25.00

1	Certificate of director,		
2	under seal	1.50	5.00
3	Copy of document filed in		
4	director's office, per page	0.50	0.75

5 B. Except as provided in section 20-1098.18, the director shall
6 deposit, pursuant to sections 35-146 and 35-147, all fees collected pursuant
7 to this section in the state general fund. A refund is not allowed for any
8 unused portion of a fee, and the director shall not prorate fees.

9 C. The license fees prescribed by this section shall be payment in
10 full of all demands for all state, county, district and municipal license
11 fees, license taxes, business privilege taxes and business privilege fees and
12 charges of every kind.

13 D. Each domestic stock life or disability insurer that pays the
14 renewal fee required under subsection A of this section is entitled to a
15 credit in the amount of at least four hundred fifty-five dollars but not more
16 than six hundred eighty dollars, as adjusted pursuant to subsection F of this
17 section, to apply to the premium tax the insurer then owes pursuant to
18 section 20-224, but the credit is not cumulative.

19 E. The director may contract for the examination for the licensing of
20 adjusters, insurance producers, bail bond agents, risk management consultants
21 and surplus lines brokers. If the director does so, the fee for examinations
22 for licenses pursuant to this section is payable directly to the contractor
23 by the applicant for examination. The director may agree to a reasonable
24 examination fee to be charged by the contractor. The fee may exceed the
25 amounts prescribed in this section.

26 F. Each December 1, if the revenue collected from fees during the
27 prior fiscal year is less than ninety-five per cent or more than one hundred
28 ten per cent of the appropriated budget for the current fiscal year, the
29 director shall revise all fees within the limits prescribed by subsection A
30 of this section on a uniform percentage basis among all fee categories and
31 shall adjust the credit prescribed by subsection D of this section as
32 necessary in order to retain any required uniformity. The director shall
33 revise the fees in such a manner that the revenue derived from the fees
34 during the subsequent fiscal year equals at least ninety-five per cent but
35 not more than one hundred ten per cent of the appropriated budget for the
36 current fiscal year. The revised fee schedule shall be effective July 1 of
37 the subsequent fiscal year. For the purposes of this subsection,
38 appropriated budget does not include any appropriation for the operation of
39 the captive insurance program established under chapter 4, article 14 of this
40 title. Any fees collected from captive insurers pursuant to subsection H of
41 this section shall not be counted for the purpose of meeting the requirement
42 of this section to recover at least ninety-five but not more than one hundred
43 ten per cent of the department's appropriated budget.

44 G. The director may contract with a voluntary domestic organization of
45 surplus lines brokers to perform any transaction prescribed in chapter 2,

1 article 5 of this title, including the acceptance or maintenance of the
2 reports required by section 20-408. The director may allow the contractor to
3 charge a stamping fee. The surplus lines broker shall pay the stamping fee
4 established pursuant to this section directly to the contractor.

5 H. Captive insurers shall pay certificate of authority issuance and
6 renewal fees as prescribed by the director.

7 I. For the purposes of subsection G of this section, "stamping fee"
8 means a reasonable filing fee charged by a contractor for any transaction
9 prescribed in chapter 2, article 5 of this title, including the acceptance or
10 maintenance of the reports required by section 20-408.

11 Sec. 2. Section 20-407, Arizona Revised Statutes, is amended to read:

12 20-407. Surplus lines; brokers

13 A. Any portion or all of an insurance coverage designated in this
14 article as "surplus lines" may be procured from unauthorized insurers subject
15 to the following conditions:

16 1. The insurance is procured through a licensed surplus lines broker
17 LICENSED IN THIS STATE, referred to in this article as the "broker".

18 2. The insurance coverage is a recognized surplus line pursuant to
19 section 20-409 or the insurance coverage is not procurable, after diligent
20 effort has been made to procure coverage or the coverage has been procured to
21 the full extent the insurers are willing to insure, and the placing of
22 insurance with an unauthorized insurer is not for the purpose of securing
23 advantages either as to premium rate or terms of the insurance contract.

24 B. Subsection A, paragraph 2 of this section does not apply to the
25 sale of insurance coverage to an industrial insured as defined in section
26 20-401.07. At the inception of each new policy and at the time of each
27 renewal, but not less than annually during the term of the policy, each
28 industrial insured that purchases a policy as provided in this section shall
29 certify to the broker on a form prescribed by the director that the insured
30 meets the definition of industrial insured prescribed in section 20-401.07.
31 The broker shall maintain the certification in the broker's files. The
32 insurance is surplus lines insurance and is subject to the applicable
33 provisions of this article that relate to surplus lines insurance.

34 C. NOTHING IN THIS SECTION PROHIBITS A RESIDENT OR NONRESIDENT
35 INSURANCE PRODUCER OR MANAGING GENERAL AGENT LICENSED IN THIS STATE FOR
36 PROPERTY OR CASUALTY INSURANCE FROM OBTAINING SURPLUS LINES INSURANCE FOR
37 POLICYHOLDERS THROUGH A SURPLUS LINES BROKER IF THE INSURANCE PRODUCER OR
38 MANAGING GENERAL AGENT USES A SURPLUS LINES BROKER LICENSED IN THIS STATE FOR
39 THE TRANSACTION OF THE INSURANCE WITH THE SURPLUS LINES INSURER. THE SURPLUS
40 LINES BROKER IS RESPONSIBLE FOR COMPLIANCE WITH THE APPLICABLE PROVISIONS OF
41 THIS ARTICLE. THE INSURANCE PRODUCER OR MANAGING GENERAL AGENT MAY PAY A FEE
42 OR SHARE A COMMISSION WITH A SURPLUS LINES BROKER WHO PROCURES THE SURPLUS
43 COVERAGE ON BEHALF OF THE INSURANCE PRODUCER. FOR THE PURPOSES OF THIS
44 SUBSECTION, "TRANSACTION" MEANS THE ACTS LISTED IN SECTION 20-106,
45 SUBSECTION A.

1 D. FOR THE TRANSACTION OF SURPLUS LINES INSURANCE, A SURPLUS LINES
2 BROKER LICENSED IN THIS STATE SHALL NOT RECEIVE A FEE, COMMISSION, BROKERAGE
3 OR OTHER VALUABLE CONSIDERATION FROM ANY PERSON WHO IS NOT LICENSED IN THIS
4 STATE AS ANY OF THE FOLLOWING:

5 1. AN INSURANCE PRODUCER PURSUANT TO CHAPTER 2, ARTICLE 3 OF THIS
6 TITLE.

7 2. A MANAGING GENERAL AGENT PURSUANT TO CHAPTER 2, ARTICLE 3.1 OF THIS
8 TITLE.

9 3. A SURPLUS LINES BROKER PURSUANT TO SECTION 20-411, 20-411.01 OR
10 20-411.02.

11 Sec. 3. Section 20-408, Arizona Revised Statutes, is amended to read:

12 20-408. Report of broker; civil penalty

13 A. Within sixty days after procuring any surplus lines insurance, the
14 broker PROCURING THE COVERAGE shall execute and file with the director a
15 verified report setting forth facts from which it may be determined whether
16 the requirements of section 20-407 have been met. The report shall also
17 contain or be accompanied by the following:

18 1. The name of the insurer and the identification number assigned to
19 it by the national association of insurance commissioners.

20 2. The number of the policy issued.

21 3. The name and address of the insured.

22 4. The premium, including taxable policy fees.

23 5. The identity of the specific recognized surplus lines coverage
24 written.

25 6. If the insurance coverage is not a recognized surplus line pursuant
26 to section 20-409, an affidavit executed by the surplus lines broker
27 attesting to compliance with the requirements of section 20-407, subsection A
28 and confirming that evidence of compliance will be maintained in the broker's
29 file for the duration of the insurance policy and for a period of six years
30 after the expiration of the policy.

31 7. The policy effective dates that shall not be open to public
32 inspection.

33 B. The director shall prescribe the required report form.

34 C. The director may direct a broker to file the broker's report
35 required by this section with a voluntary domestic organization of surplus
36 lines brokers with which the director has contracted to accept reports
37 pursuant to section 20-167.

38 D. A broker may collect from the insured the stamping fee prescribed
39 in section 20-167.

40 E. The director may impose and collect a civil penalty of not more
41 than twenty-five dollars against a broker for each day the report prescribed
42 in subsection A of this section is late.

1 Sec. 4. Section 20-411, Arizona Revised Statutes, is amended to read:

2 20-411. Licensing of surplus lines broker; examination

3 A. A person shall not act as a surplus lines broker in this state
4 unless the person has a current surplus lines broker license issued by the
5 director.

6 B. Any individual who is a resident of this state and who is licensed
7 as a resident insurance producer authorized for property or casualty
8 insurance in this state may also be licensed as a resident surplus lines
9 broker if the director determines that the insurance producer is competent
10 and trustworthy. The director shall prescribe and furnish application forms.

11 C. Each individual applicant for an original license as a resident
12 surplus lines broker or for renewal of a resident surplus lines broker
13 license who has not previously taken and passed a surplus lines broker
14 license examination in this state shall take and pass to the director's
15 satisfaction a written examination given by or under the supervision of the
16 director. The examination shall reasonably test the applicant's knowledge of
17 surplus lines insurance and the legal responsibilities of a surplus lines
18 broker.

19 D. The director may issue a resident surplus lines broker license to
20 any business entity that is licensed as a resident property or casualty
21 insurance producer in this state and that satisfies all of the requirements
22 prescribed by section 20-285, subsections D and E.

23 E. At least one individual in each office or place where surplus lines
24 insurance is transacted in this state shall be licensed PURSUANT TO THIS
25 TITLE as EITHER an insurance producer authorized for property or casualty
26 insurance ~~under this title and shall have passed the examination required by~~
27 ~~this section~~ OR A MANAGING GENERAL AGENT FOR PROPERTY OR CASUALTY INSURANCE,
28 AND SHALL BE LICENSED PURSUANT TO THIS ARTICLE AS A SURPLUS LINES BROKER.

29 F. The license prescribed in this section ~~expires and is subject to~~
30 ~~renewal~~ SHALL EXPIRE AND BE SUBJECT TO RENEWAL COINCIDENTAL TO, AND IN THE
31 SAME MANNER AS, OTHER INSURANCE LICENSE AUTHORITY as prescribed in section
32 20-289. The director shall charge the surplus lines broker license fee
33 prescribed in section 20-167, EXCEPT THAT, FROM AND AFTER JUNE 30, 2005, A
34 LICENSEE ADDING SURPLUS LINES BROKER AUTHORITY TO AN EXISTING INSURANCE
35 LICENSE SHALL BE CHARGED ONE-HALF THE SURPLUS LINES BROKER LICENSE FEE IF
36 LESS THAN TWO YEARS REMAIN IN THE TERM OF THE EXISTING INSURANCE LICENSE AS
37 OF THE DATE THE DIRECTOR RECEIVES THE APPLICATION TO ADD SURPLUS LINES BROKER
38 AUTHORITY TO THE EXISTING INSURANCE LICENSE.

39 G. To the extent not inconsistent with this article, section 20-281,
40 section 20-283, subsection B, paragraph 6, section 20-286, subsection C and
41 sections 20-287, 20-289, 20-291, 20-292, 20-295, 20-296, 20-297, 20-298,
42 20-299, 20-300, 20-301 and 20-302 apply to surplus lines brokers.

1 Sec. 5. Revision of surplus lines broker's license fee

2 Notwithstanding section 20-167, subsection F, Arizona Revised Statutes,
3 effective July 1, 2005, the director of the department of insurance shall
4 revise the quadrennial surplus lines broker's license fee to one thousand
5 dollars.

6 Sec. 6. Retroactivity

7 Sections 20-167 and 20-411, Arizona Revised Statutes, as amended by
8 this act, apply, and section 5 of this act is effective, retroactively to
9 from and after June 30, 2005.

APPROVED BY THE GOVERNOR MAY 9, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2005.

Passed the House February 7, 2005

Passed the Senate April 4, 2005

by the following vote: 58 Ayes,

by the following vote: 29 Ayes,

0 Nays, 2 Not Voting

0 Nays, 1 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

Norman L. Moore
Chief Clerk of the House

Charmaine Bellinger
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

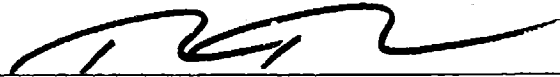
Secretary of State

H.B. 2190


HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House April 28, 2005,
by the following vote: 55 Ayes,

0 Nays, 5 Not Voting



Speaker of the House
Pro Tempore


Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate May 2, 2005,
by the following vote: 29 Ayes,

0 Nays, 1 Not Voting



President of the Senate


Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor

this 3rd day of May, 2005

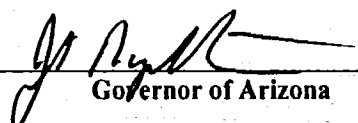
at 9:15 o'clock a. M.


Secretary to the Governor

Approved this 9 day of

May, 2005,

at 4:55 o'clock P. M.


Governor of Arizona

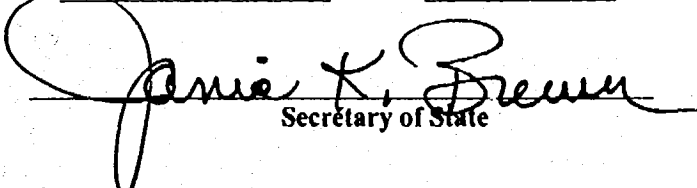
H.B. 2190

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 10 day of May, 2005,

at 9:26 o'clock A. M.


Secretary of State